Resolution No. 2017-44

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF GUAM POWER AUTHORITY REVENUE REFUNDING BONDS, APPROVING FORMS OF RELATED DOCUMENTS, AGREEMENTS AND ACTIONS, AND AUTHORIZING THE EXECUTION AND DELIVERY THEREOF

WHEREAS, the Consolidated Commission on Utilities (the "Commission"), has determined that there exists an opportunity to refund and retire certain indebtedness of the Guam Power Authority ("GPA") to achieve debt service savings, and has determined that it is in the public interest for GPA to issue bonds pursuant to Chapter 8, Title 12, Guam Code Annotated (§8101 et seq.), as amended (the "Act") for such purposes; and

WHEREAS, GPA has previously made and entered into an Indenture dated as of December 1, 1992 (the "Senior Indenture"), by and between GPA, the Bank of Guam, as trustee (the "Trustee") and U.S. Bank National Association, as successor co-trustee (the "Co-Trustee"), which authorized one or more series of Guam Power Authority Revenue Bonds (the "Senior Bonds"); and

WHEREAS, GPA has determined it is necessary and desirable to issue one or more additional series of Guam Power Authority Revenue Bonds to refinance all or a portion of its remaining outstanding Guam Power Authority Revenue Bonds, 2010 Series A (the "Prior Bonds"); and

WHEREAS, there has been presented to this meeting the form of a Seventh Supplemental Indenture, among GPA, the Trustee and the Co-Trustee (the "Seventh Supplemental Indenture") pursuant to which GPA proposes to issue one or more series of additional Senior Bonds (the "Refunding Bonds"); and

WHEREAS, there has been presented to this meeting the form of a Supplemental Continuing Disclosure Agreement, by and among GPA, the Trustee and the Co-Trustee, in connection with the Refunding Bonds (the "Supplemental Continuing Disclosure Agreement"); and
WHEREAS, there has been presented to this meeting the form of a Bond Purchase Agreement (the “Bond Purchase Agreement”), between GPA and Barclays Capital Inc. and Citigroup Global Markets Inc., as underwriters (the “Underwriters”), relating to the sale of the Refunding Bonds; and

WHEREAS, there has been presented to this meeting the form of an Escrow Agreement between GPA and the Co-Trustee (the “Escrow Agreement”), relating to the refunding and retirement of the Prior Bonds; and

WHEREAS, the Seventh Supplemental Indenture, the Supplemental Continuing Disclosure Agreement and the Escrow Agreement are collectively referred to herein as the “Bond Documents”; and

WHEREAS, there has been presented to this meeting the form of a Preliminary Official Statement; and

WHEREAS, the issuance of the Refunding Bonds shall be subject to the approval of /Liheslaturan Guåhan/ (the “Legislature”); and

WHEREAS, the approval of Guam Economic Development Authority (“GEDA”) is required for the issuance and sale of the Refunding Bonds; and

WHEREAS, the approval of the Public Utilities Commission of Guam (“PUC”) is required for the issuance and sale of the Refunding Bonds;

NOW, THEREFORE, BE IT RESOLVED, by the Consolidated Commission on Utilities as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The issuance and sale of the Refunding Bonds for the purpose of refunding the Prior Bonds, to pay costs of issuance and of such refunding, to pay for credit enhancement, if any, and to fund all or a portion of a deposit to the debt service reserve fund, if any, is hereby approved. The Refunding Bonds shall be issued in an aggregate principal amount sufficient to provide funds for the payment of the Prior Bonds and for the payment of all expenses incident to such issuance and refunding, as set forth in §8229 of the Act.

The Senior Bonds are limited obligations of GPA and the principal thereof and interest thereon may be made payable solely from revenues (as defined in the Act) of GPA available for such purpose and shall not be a debt or liability of the Government of Guam.
The Chair of the Commission, the Vice Chair/Secretary of the Commission or the General Manager of GPA (the "Designated Officers") are hereby individually and collectively authorized and directed to execute and countersign, for and on behalf and in the name of GPA and under its seal, the Refunding Bonds, in an aggregate principal amount determined as set forth herein and in the Act, in accordance with the Seventh Supplemental Indenture, and in substantially the form set forth in the Seventh Supplemental Indenture.

The Refunding Bonds, when so executed, shall be delivered to the Co-Trustee to be authenticated by, or caused to be authenticated by, the Co-Trustee. The Co-Trustee is hereby requested and directed to authenticate, or cause to be authenticated, the Refunding Bonds by executing the certificate of authentication appearing thereon, and to hold the Refunding Bonds in safekeeping in accordance with the book-entry procedures applicable to the Refunding Bonds until the issuance thereof from time to time in accordance with the Seventh Supplemental Indenture.

Section 3. The form of Preliminary Official Statement presented to this meeting is hereby approved, with such additions, changes and modifications as the Designated Officers may approve upon consultation with legal counsel, such approval to be conclusively evidenced by the execution of a certificate deeming final the Preliminary Official Statement for purposes of Rule 15c2-12 of the Securities and Exchange Commission by the Designated Officers. Each of the Designated Officers is hereby authorized to execute and deliver such certificate, to authorize the Underwriters to distribute such Preliminary Official Statement to potential purchasers of the Refunding Bonds and other interested parties, and to execute and cause to be delivered a final Official Statement to purchasers of the Refunding Bonds and other interested parties, with such additions, changes and modifications from the Preliminary Official Statement as the Designated Officers may approve upon consultation with staff and legal counsel, such approval to be conclusively evidenced by the execution and delivery of the final Official Statement by one or more of the Designated Officers. The Underwriters are hereby authorized to cause the Official Statement to be delivered to the purchasers of the Refunding Bonds and to be distributed in preliminary form in connection with the marketing and sale of the Refunding Bonds.

Section 4. The Bond Purchase Agreement presented to this meeting is hereby approved, with such additions, changes and modifications as the Designated Officers executing the same may approve upon consultation with legal counsel, such approval to be conclusively evidenced by the Bond Purchase
Agreement executed by the Designated Officers, who are each hereby severally authorized and directed to execute the same.

Section 5. The Bond Documents presented to this meeting are hereby approved, with such additions, changes and modifications as the Designated Officers may approve upon consultation with legal counsel, such approval to be conclusively evidenced by the Bond Documents executed by such Designated Officers, who are each hereby severally authorized and directed to execute the same.

Section 6. The Designated Officers are hereby authorized to approve such bond insurance or other supplemental security arrangements for the Refunding Bonds as are approved by the Designated Officers, and to approve any other similar agreements deemed by the Designated Officers to be necessary or appropriate in connection therewith.

Section 7. The Designated Officers and other appropriate officials of GPA are hereby authorized and directed to do any and all things and to execute and deliver any and all documents and agreements which they may deem necessary or advisable in order to effectuate the purposes of this Resolution, including, without limitation, closing documents and certificates, including a tax certificate, amendments to any existing agreements and any documents or agreements necessary to obtain liquidity or credit enhancement for the Refunding Bonds or the obligations of GPA with respect thereto.

Section 8. Any documents authorized hereby to be executed by the Designated Officers may bear the seal of GPA and be attested by an appropriate official of GPA.

Section 9. The Refunding Bonds shall not be issued without, and shall be in all respects subject to the terms and conditions of, the approval of the Legislature, of the PUC, and of GEDA, in accordance with the Act.

Section 10. All actions heretofore taken by the officers, representatives or agents of GPA in connection with the issuance and sale of the Refunding Bonds are hereby ratified, confirmed and approved.
Section 11. This Resolution shall take effect from and after its adoption.

RESOLVED, that the Chairman certifies and the Secretary attests to the adoption of this Resolution.

DULY AND REGULARLY ADOPTED AND APPROVED this 22nd day of November 2017.

Certified by:  

[Signature]
JOSEPH T. DUENAS  
Chairperson

Attested by:  

[Signature]
J. GEORGE BAMBA  
Secretary

This Resolution is hereby APPROVED for purposes of Article 2 of Chapter 8 of Title 12 of the Guam Code Annotated.

EDWARD J.B. CALVO  
Governor of Guam

SECRETARY’S CERTIFICATE

I, J. GEORGE BAMBA, Secretary for the Consolidated Commission on Utilities do hereby certify as follows:

The foregoing is a full, true and accurate copy of a resolution duly adopted at a meeting of the members of the Consolidated Commission on Utilities duly and legally held at a place properly noticed and advertised, at which meeting a quorum was present, and the members who were present voted as follows:

AYES: 5
NAYS: 0
ABSTENTIONS: 0

Said original resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

SO CERTIFIED this 22nd day of November 2017.

[Signature]
J. GEORGE BAMBA  
Secretary, Consolidated Commission on Utilities